

April 7, 2004

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication
WC Docket No. 04-36
WC Docket No. 03-211
WC Docket No. 02-361
WC Docket No. 03-266

Dear Chairman Powell:

Very soon, the Federal Communications Commission will have the chance to establish an important legacy concerning government's role in the future development of the Internet.

Specifically, the FCC will decide whether to extend to Internet communication the same system of regulation and taxation that governs our nation's phone networks. We urge the Commission to send a clear signal of forbearance on new taxation and regulation. Such a policy will be a powerful sign to entrepreneurs, investors, and consumers that the FCC supports the unfettered development of this promising new technology.

We base our views on the following facts and conclusions concerning Internet telephony:

Job Growth & Economic Development. As you and your fellow Commissioners are well aware, the telecom sector has been battered in recent years, with tens of thousands of jobs lost. Internet telephony (often called Voice over Internet Protocol or VoIP) is this sector's best hope to reestablish growth. No other trend within the telecom industry can attract the venture capital needed to establish VoIP as a mass-market product. This venture capital will fund the investment, development, and roll-out that are all pre-conditions for job creation – but only if the FCC affirms now that it will not tie this promising technology down with regulations designed for other technologies.

We believe that if the FCC extends existing levies to this promising new technology, the climate for investment and development will be greatly chilled.

A Wholly Different Path of Development. America's phone system developed quite differently from most other markets in America. Its origins are rooted in decades of government-sanctioned monopoly.

By contrast, the Internet has no such history. Indeed, the preponderance of its development is squarely due to private initiative. VoIP is a logical technological

outgrowth of the Internet – a better, more sophisticated means of communication among users. As the technology inevitably improves, VoIP holds the potential of offering a quantum level of improvement to all consumers, not just “early adopters.” A government policy of forbearance will hasten the growth of VoIP’s advancements for all users.

Many have expressed concern with the so-called “Digital Divide.” While we are skeptical of many of the claims behind this thesis, clearly, adding taxes and regulation to the Internet will have a disproportionate impact on lower-income consumers, thereby adding a roadblock to them getting onto the “information super highway.”

Fulfilling Technology’s Promise. The productivity benefits that mass-market Internet telephony holds for America’s economy are stunning. First, it will hasten the country’s transition to more efficient national communication systems because Internet protocol networks are more stable than ordinary copper networks using circuit-switched electronic transmission. Second, with its promise of more cost-effective national and international calling, Internet telephony offers consumers a powerful reason to purchase broadband service. This, in turn, will spur further economic growth in the telecom sector.

Stopping Regulation for the Long Term. The importance of setting forth a decisive policy of forbearance on Internet telephony is made clear by what unfortunately has happened with Internet taxation. In 1998, Congress wisely passed a temporary moratorium on state taxation of Internet access and discriminatory taxation of Internet commerce. The resulting regulatory clarity helped spur the robust growth of online economic activity. However, that moratorium expired. The National Taxpayers Union and many of the other undersigned groups have advocated that it be clarified to cover all types of Internet service and access, and also extended permanently. To date, because of heavy lobbying by state and local leaders looking for yet another source of revenue, this has not happened.

In the period since the moratorium has expired, many state and local elected leaders have begun eyeing new charges on Internet access and commerce. State leaders pushing for these taxes make the spurious claim that they are “losing” revenue because of the Internet. The reality of course is that even without these punitive levies, economic activity generated by Internet-intensive companies means more taxes of many types for states: personal income taxes, corporate income taxes, and property taxes, to name just three.

Not only do such levies constitute “piling on” the private sector, but they will also have a detrimental impact on consumers, especially those with lower incomes. And the levies will stymie growth in this sector in coming years.

The lesson for the FCC should be clear: An explicit, firm, and long-term policy of forbearance is the best and perhaps the only way to keep successive regulators from extending taxes and other regulations to VoIP.

In conclusion, we reiterate our request that the FCC establish an explicit policy of forbearance of taxation and regulation on Internet telephony. Such a clear policy will establish the regulatory certainty needed by capital markets, and foster the speedy roll-out of this incredibly promising new technology.

Respectfully submitted,

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cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein